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Attorneys for Plaintiff  
VESTA STRATEGIES, LLC

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

VESTA STRATEGIES, LLC,

Plaintiff,

v.

ROBERT E. ESTUPINIAN, GINNY  
ESTUPINIAN, MUTUAL VISION, LLC,  
MILLENNIUM REALTY GROUP,  
VESTA REVERSE 100, LLC, VESTA  
CAPITAL ADVISORS, LLC, and  
CAROL-ANN TOGNAZZINI,

Defendants.

CASE NO. C 07-06216 JW RS

**PLAINTIFF VESTA STRATEGIES, LLC'S  
EX PARTE MOTION FOR A  
TEMPORARY RESTRAINING ORDER  
AND MOTION FOR LEAVE TO FILE A  
SECOND AMENDED COMPLAINT**

1 Plaintiff, Vesta Strategies, LLC (“Vesta”), hereby moves this Court *ex parte* for a  
 2 temporary restraining order and for other relief. Specifically, Vesta respectfully moves for the  
 3 following immediate relief:

- 4 (A) Entry of a temporary restraining order prohibiting Robert Estupinian and  
 5 Ginny Estupinian (the “Estupinians”) from transferring, altering,  
 6 modifying, copying, destroying, or tampering with any data on Vesta’s  
 7 computer hard drives;  
 8 (B) Entry of an injunction requiring the Estupinians to immediately return  
 9 Vesta’s hard drives;  
 10 (C) Entry of an order requiring the Estupinians to appear, within 5 days, for a  
 11 deposition to testify about what they did to Vesta’s computers;  
 12 (D) Entry of an order for the Estupinians to show cause why they and anyone  
 13 acting in concert with them (including anyone who purports to authorize  
 14 them to delete information from the Vesta hard drives) should not be  
 15 sanctioned for their roles in tampering with and converting Vesta’s  
 16 computers;  
 17 (E) Award Vesta all of its attorneys’ fees and costs in connection with  
 18 obtaining the return of Vesta’s property; and  
 19 (F) Such other or further relief as the Court deems just and appropriate.

20 In conjunction with its request for a temporary restraining order, Vesta also respectfully  
 21 moves the Court for leave to file a Second Amended Complaint, attached hereto as Exhibit A.  
 22 Vesta’s proposed Second Amended Complaint makes only two changes to the prior complaint:  
 23 (1) it adds allegations concerning the Estupinians’ conversion of Vesta’s computer hard drives  
 24 and data, and (2) it adds two new defendants who received and accepted monies that were  
 25 misappropriated from Vesta.

26 In support of this *ex parte* motion, Vesta submits herewith its Memorandum of Points and  
 27 Authorities; the Declarations of Paul Chronis and Peter Ye, and the Proposed Order. This motion  
 28 is made pursuant to Rules 65(b) and 15(a) of the Federal Rules of Civil Procedure and Local Rule  
 65-1.

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Counsel for Vesta attempted to notify counsel for the Estupinians on December 14, 2007 at 11:55 a.m., that Vesta would be filing this *ex parte* application today.

Dated: December 14, 2007

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

By: /s/ Daniel E. Alberti  
Daniel E. Alberti

Attorneys for Plaintiff  
VESTA STRATEGIES, LLC

MPK 136368-2.029407.0020

McDERMOTT WILL & EMERY LLP  
ATTORNEYS AT LAW  
PALO ALTO